

# **EXHIBIT 5**

**Stephen Weil**

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**From:** Stephen Weil  
**Sent:** Tuesday, January 28, 2025 2:01 PM  
**To:** Silk, Jennie; Florence Johnson; Alexis Johnson; McKinney, Kelsey; Betsy McKinney; Brooke Cluse; cgrice; Clyde W. Keenan; Darrell J. O'Neal; David Louis Mendelson I; Deborah Godwin; ge@perrygriffin.com; Jarrett Michael Dean Spence; John Keith Perry Jr.; Laura Elizabeth Smittick; lgross@perrygriffin.com; Martin Zummach; Mary Collins; mistie@sparkman-zummach.com; Robert Spence; Terri Norman; McMullen, Bruce; Reagan, Ian; Morris, Angela; Thompson, Theresa  
**Cc:** Antonio Romanucci; Bhavani Raveendran; Colton Johnson Taylor; Dana Kondos; Joshua Levin; Sam Harton; Sarah Raisch  
**Subject:** Re: Wells v. City of Memphis et. al. - Ltr to Counsel re Schedule for Pleadings & Discovery of Affirm. Defenses

Jennie and Bruce:

I am writing to follow up on our January 22 call regarding the City's supplemental response to Plaintiff RFP No. 133.

You explained that aside from limited traditional production to the DOJ (which you have produced to us and identified), the City provided documents to the DOJ by making several databases available to the DOJ for downloading or other address. You stated that you do not know which particular documents / ESI the DOJ downloaded or accessed from these databases, and that the DOJ had declined to provide you with such information.

The databases you identified are as follows:

- The RMS (Record Management System) database, which contains a variety of police ESI. You stated that this system contains comprehensive police data such as reports and investigations, and that a variety of police activity generates entries in this system.
- The iaPro database, which contains MPD internal affairs ESI
- The CAD database, which contains dispatch ESI
- The Evidence.com database, which is maintained by Taser / Axon and stores police body camera videos (and, we presume, car videos—***please correct us if that is wrong***).

During our call Jennie stated that these were the databases she could remember “off the top of [her] head.” Plaintiff asked Jennie to follow up and confirm which databases the City had provided, and she

agreed to do so. **JENNIE—Please confirm that this is an exhaustive list of the databases to which the City provided the DOJ with access, or if there are more, please identify them.**

Given that the City provided the DOJ with access to these databases, we asked during the call for the City to provide Plaintiff with access to the same databases. The City refused. We are writing to set out and address the parties' positions regarding such access, as well as propose some additional means by which documents / ESI might be provided to respond to RFP 133.

**Confidentiality.** You objected that the databases contained large amounts of sensitive private information of civilians involved in police encounters. We responded that there is already a confidentiality order in place to protect such information (ECF 213) and offered to discuss entering into a more robust confidentiality order if you believed one was necessary. You did not respond. Though we believe the current protective order is sufficient, that invitation remains open. Given your lack of follow-up we assume you have not identified any such deficiencies.

**Database fields.** You objected that the City could not provide Plaintiff counsel with full access to the RMS database because the database was likely to include ESI related to highly sensitive, ongoing investigations. We asked to have access to the database fields that would permit us focus our review for responsive information. You refused. We understand that we are at issue.

**Claim that Plaintiff counsel would misuse database information.** Bruce asserted that Plaintiff counsel should not be provided with access to the databases provided to the DOJ because Plaintiff counsel were "for-profit" plaintiff lawyers from Chicago who would use the information in the database to seek out new clients. The protective order in this case, however, provides that parties may use documents and information designated as Confidential only for this case (ECF 213 para. II(2)). Those attorneys on this case who are from out of town are admitted pro hac vice and thus are subject to the Court's authority to enforce the protective order. We offer to treat all documents and ESI in the RMS database as Confidential under the protective order. It should go without saying that we have and will abide by that order. Our invitation remains open to address any deficiencies you believe might exist in the order, but you have identified none.

**Scope.** Jennie objected that RFP 133 was overbroad because the DOJ's investigation was conducted pursuant to a congressional mandate. That is simply wrong: DOJ pattern and practice investigations are conducted pursuant to 34 USC § 12601, and the scope of Section 12601(a) is essentially the same as any Monell claim. Section 12601(b) grants authority where the Attorney General has "cause to believe" there is a pattern of violations, and in this case the DOJ's July 27, 2023 announcement makes plain that the DOJ's investigation would "focus on MPD's use of force and its stops, searches and arrests, as well as whether it engages in discriminatory policing." Those topics are tightly congruent with the Monell patterns and practices alleged in our case. Likewise virtually all of the DOJ's report, with the possible exception of two short sections on the MPD's inappropriate approach to children and people with mental disabilities, describes patterns and practices tightly linked to the MPD's beating of Mr. Nichols. Indeed we made the point in our January 17 letter that the DOJ's report, which was presented after gathering extensive pattern and practice evidence from the City, maps very closely on Plaintiff's Monell allegations.

Setting aside this basic fact, we noted during our call that our request to review database fields could help narrow and focus our ultimate review of documents in the RMS database. Your refusal to agree to field review is thus doubly unreasonable.

**Evidence.com metadata and audit trails.** It is our understanding that the database pursuant to which videos are stored in Evidence.com contains both metadata and audit trails showing which videos were viewed and accessed, and by whom. We therefore ask that the City ***identify how the DOJ was provided access to the Evidence.com database.*** For example, was the DOJ provided with a particular password or other means “key” for accessing Evidence.com data? We ask that you please be as descriptive as possible. ***Please advise whether you will provide this information.***

To sum up:

- By this Friday 1/31, we ask that you identify all databases that the City provided to the DOJ, if there are any besides the four databases identified here.
- We understand that we are at issue with respect to whether the City will provide us with field information for the RMS database and the other databases described in this email. If that is incorrect please let us know by this Friday 1/31.
- By this Friday 1/31, please advise us whether the City will agree to provide information on the DOJ’s login / access to the Evidence.com database, as well as sufficient permissions to gather all available audit information reflecting the DOJ’s activity on that site.

Best regards,

- Steve

**Stephen H. Weil**  
Senior Attorney

**RBL** ROMANUCCI  
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**From:** Silk, Jennie <jsilk@bakerdonelson.com>

**Sent:** Monday, January 20, 2025 10:24 AM

**To:** Stephen Weil <SWeil@rblaw.net>; Florence Johnson <fjohnson@johnsonandjohnsonattys.com>; Alexis Johnson <AJohnson@rblaw.net>; McKinney, Kelsey <kmckinney@bakerdonelson.com>; Betsy McKinney <BMckinney@gmlblaw.com>; Brooke Cluse <Brooke@bencrump.com>; cgrice <cgrice@eflawgroup.com>; Clyde W. Keenan <keenandl@aol.com>; Darrell J. O'Neal <domemphislaw@darrelloneal.com>; David Louis Mendelson I <dm@mendelsonfirm.com>; Deborah Godwin <DGodwin@gmlblaw.com>; ge@perrygriffin.com <ge@perrygriffin.com>; Jarrett Michael Dean Spence <jspence@spencepartnerslaw.com>; John Keith Perry Jr. <jkp@perrygriffin.com>; Laura Elizabeth Smittick <support@smitticklaw.com>; lgross@perrygriffin.com <lgross@perrygriffin.com>; Martin Zummach <martin@sparkman-zummach.com>; Mary Collins <MCollins@gmlblaw.com>; mistie@sparkman-zummach.com <mistie@sparkman-zummach.com>; Robert Spence <rspence@spencepartnerslaw.com>; Terri Norman <TNorman@gmlblaw.com>; McMullen, Bruce <bmcullen@bakerdonelson.com>; Reagan, Ian <ireagan@bakerdonelson.com>; Morris, Angela <amorris@bakerdonelson.com>; Thompson, Theresa <tthompson@bakerdonelson.com>

**Cc:** Antonio Romanucci <aromanucci@rblaw.net>; Bhavani Raveendran <b.raveendran@rblaw.net>; Colton Johnson Taylor <cjohnson@rblaw.net>; Dana Kondos <DKondos@rblaw.net>; Joshua Levin <JLevin@rblaw.net>; Sam Harton <sharton@rblaw.net>; Sarah Raisch <sraisch@rblaw.net>

**Subject:** RE: Wells v. City of Memphis et. al. - Ltr to Counsel re Schedule for Pleadings & Discovery of Affirm. Defenses

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Those times are okay for us, although I defer to other counsel on the affirmative defense discussion.

**Jennie Vee Silk**

Phone 901.577.8212

---

**From:** Stephen Weil <SWeil@rblaw.net>

**Sent:** Monday, January 20, 2025 10:06 AM

**To:** Silk, Jennie <jsilk@bakerdonelson.com>; Florence Johnson <fjohnson@johnsonandjohnsonattys.com>; Alexis Johnson <AJohnson@rblaw.net>; McKinney, Kelsey <kmckinney@bakerdonelson.com>; Betsy McKinney <BMckinney@gmlblaw.com>; Brooke Cluse <Brooke@bencrump.com>; cgrice <cgrice@eflawgroup.com>; Clyde W. Keenan <keenandl@aol.com>; Darrell J. O'Neal <domemphislaw@darrelloneal.com>; David Louis Mendelson I <dm@mendelsonfirm.com>; Deborah Godwin <DGodwin@gmlblaw.com>; ge@perrygriffin.com; Jarrett Michael Dean Spence <jspence@spencepartnerslaw.com>; John Keith Perry Jr. <jkp@perrygriffin.com>; Laura Elizabeth Smittick <support@smitticklaw.com>; lgross@perrygriffin.com; Martin Zummach <martin@sparkman-zummach.com>; Mary Collins <MCollins@gmlblaw.com>; mistie@sparkman-zummach.com; Robert Spence <rspence@spencepartnerslaw.com>; Terri Norman <TNorman@gmlblaw.com>; McMullen, Bruce <bmcullen@bakerdonelson.com>; Reagan, Ian <ireagan@bakerdonelson.com>; Morris, Angela <amorris@bakerdonelson.com>; Thompson, Theresa <tthompson@bakerdonelson.com>

**Cc:** Antonio Romanucci <aromanucci@rblaw.net>; Bhavani Raveendran <b.raveendran@rblaw.net>; Colton Johnson Taylor <cjohnson@rblaw.net>; Dana Kondos <DKondos@rblaw.net>; Joshua Levin <JLevin@rblaw.net>; Sam Harton <sharton@rblaw.net>; Sarah Raisch <sraisch@rblaw.net>

**Subject:** RE: Wells v. City of Memphis et. al. - Ltr to Counsel re Schedule for Pleadings & Discovery of Affirm. Defenses

Thanks Jennie.

What times are you available Wednesday? We are most open after 2:00. To get the ball rolling I will propose **Wednesday 2:00 p.m.**

Let's also get a time on the books to talk about the City's response to RFP 133. I will propose **Wednesday at 2:30** or whenever we finish the affirmative defenses call if that is earlier.

Please let me know if these times do NOT work for you. Plaintiff will circulate a dial-in.

- Steve

**Stephen H. Weil**  
Senior Attorney



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**From:** Silk, Jennie <[jsilk@bakerdonelson.com](mailto:jsilk@bakerdonelson.com)>

**Sent:** Monday, January 20, 2025 9:38 AM

**To:** Stephen Weil <[SWeil@rblaw.net](mailto:SWeil@rblaw.net)>; Florence Johnson <[fjohnson@johnsonandjohnsonattys.com](mailto:fjohnson@johnsonandjohnsonattys.com)>; Alexis Johnson <[AJohnson@rblaw.net](mailto:AJohnson@rblaw.net)>; McKinney, Kelsey <[kmckinney@bakerdonelson.com](mailto:kmckinney@bakerdonelson.com)>; Betsy McKinney <[BMckinney@gmlblaw.com](mailto:BMckinney@gmlblaw.com)>; Brooke Cluse <[Brooke@bencrump.com](mailto:Brooke@bencrump.com)>; cgrice <[cgrice@eflawgroup.com](mailto:cgrice@eflawgroup.com)>; Clyde W. Keenan <[keenandl@aol.com](mailto:keenandl@aol.com)>; Darrell J. O'Neal <[domemphislaw@darrelloneal.com](mailto:domemphislaw@darrelloneal.com)>; David Louis Mendelson I <[dm@mendelsonfirm.com](mailto:dm@mendelsonfirm.com)>; Deborah Godwin <[DGodwin@gmlblaw.com](mailto:DGodwin@gmlblaw.com)>; [ge@perrygriffin.com](mailto:ge@perrygriffin.com); Jarrett Michael Dean Spence <[jspence@spencepartnerslaw.com](mailto:jspence@spencepartnerslaw.com)>; John Keith Perry Jr. <[jkp@perrygriffin.com](mailto:jkp@perrygriffin.com)>; Laura Elizabeth Smittick <[support@smitticklaw.com](mailto:support@smitticklaw.com)>; [lgross@perrygriffin.com](mailto:lgross@perrygriffin.com); Martin Zummach <[martin@sparkman-zummach.com](mailto:martin@sparkman-zummach.com)>; Mary Collins <[MCollins@gmlblaw.com](mailto:MCollins@gmlblaw.com)>; [mistie@sparkman-zummach.com](mailto:mistie@sparkman-zummach.com); Robert Spence <[rspence@spencepartnerslaw.com](mailto:rspence@spencepartnerslaw.com)>; Terri Norman <[TNorman@gmlblaw.com](mailto:TNorman@gmlblaw.com)>; McMullen, Bruce <[bmcmullen@bakerdonelson.com](mailto:bmcmullen@bakerdonelson.com)>; Reagan, Ian <[ireagan@bakerdonelson.com](mailto:ireagan@bakerdonelson.com)>; Morris, Angela <[amorris@bakerdonelson.com](mailto:amorris@bakerdonelson.com)>; Thompson, Theresa <[tthompson@bakerdonelson.com](mailto:tthompson@bakerdonelson.com)>

**Cc:** Antonio Romanucci <[aromanucci@rblaw.net](mailto:aromanucci@rblaw.net)>; Bhavani Raveendran <[b.raveendran@rblaw.net](mailto:b.raveendran@rblaw.net)>; Colton Johnson Taylor <[cjohnson@rblaw.net](mailto:cjohnson@rblaw.net)>; Dana Kondos <[DKondos@rblaw.net](mailto:DKondos@rblaw.net)>; Joshua Levin <[JLevin@rblaw.net](mailto:JLevin@rblaw.net)>; Sam Harton <[sharton@rblaw.net](mailto:sharton@rblaw.net)>; Sarah Raisch <[sraisch@rblaw.net](mailto:sraisch@rblaw.net)>

**Subject:** RE: Wells v. City of Memphis et. al. - Ltr to Counsel re Schedule for Pleadings & Discovery of Affirm. Defenses

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Steve,

We are not available for any of the proposed conferences tomorrow. Bruce and I will be in a deposition. We have availability on Wednesday.

Thanks,

**Jennie Vee Silk**

Phone 901.577.8212

---

**From:** Stephen Weil <[SWeil@rblaw.net](mailto:SWeil@rblaw.net)>

**Sent:** Saturday, January 18, 2025 2:26 PM

**To:** Florence Johnson <[fjohnson@johnsonandjohnsonattys.com](mailto:fjohnson@johnsonandjohnsonattys.com)>; Alexis Johnson <[AJohnson@rblaw.net](mailto:AJohnson@rblaw.net)>; Silk, Jennie <[jsilk@bakerdonelson.com](mailto:jsilk@bakerdonelson.com)>; McKinney, Kelsey <[kmckinney@bakerdonelson.com](mailto:kmckinney@bakerdonelson.com)>; Betsy McKinney <[BMcKinney@gmlblaw.com](mailto:BMcKinney@gmlblaw.com)>; Brooke Cluse <[Brooke@bencrump.com](mailto:Brooke@bencrump.com)>; cgrice <[cgrice@eflawgroup.com](mailto:cgrice@eflawgroup.com)>; Clyde W. Keenan <[keenandl@aol.com](mailto:keenandl@aol.com)>; Darrell J. O'Neal <[domemphislaw@darrelloneal.com](mailto:domemphislaw@darrelloneal.com)>; David Louis Mendelson I <[dm@mendelsonfirm.com](mailto:dm@mendelsonfirm.com)>; Deborah Godwin <[DGodwin@gmlblaw.com](mailto:DGodwin@gmlblaw.com)>; [ge@perrygriffin.com](mailto:ge@perrygriffin.com); Jarrett Michael Dean Spence <[jspence@spencepartnerslaw.com](mailto:jspence@spencepartnerslaw.com)>; John Keith Perry Jr. <[jkp@perrygriffin.com](mailto:jkp@perrygriffin.com)>; Laura Elizabeth Smittick <[support@smitticklaw.com](mailto:support@smitticklaw.com)>; [lgross@perrygriffin.com](mailto:lgross@perrygriffin.com); Martin Zummach <[martin@sparkman-zummach.com](mailto:martin@sparkman-zummach.com)>; Mary Collins <[MCollins@gmlblaw.com](mailto:MCollins@gmlblaw.com)>; [mistie@sparkman-zummach.com](mailto:mistie@sparkman-zummach.com); Robert Spence <[rspence@spencepartnerslaw.com](mailto:rspence@spencepartnerslaw.com)>; Terri Norman <[TNorman@gmlblaw.com](mailto:TNorman@gmlblaw.com)>; McMullen, Bruce <[bmcullen@bakerdonelson.com](mailto:bmcullen@bakerdonelson.com)>; Reagan, Ian <[ireagan@bakerdonelson.com](mailto:ireagan@bakerdonelson.com)>; Morris, Angela <[amorris@bakerdonelson.com](mailto:amorris@bakerdonelson.com)>; Thompson, Theresa <[tthompson@bakerdonelson.com](mailto:tthompson@bakerdonelson.com)>

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**Subject:** RE: Wells v. City of Memphis et. al. - Ltr to Counsel re Schedule for Pleadings & Discovery of Affirm. Defenses

Counsel thanks to those of you who responded; we got several Nos.

It sounds as though we will need to take this up with the Court, and to do so we will need to hold a conference first.

We propose January 21 at 10:30, which is 30 minutes after our proposed conference with the City regarding the DOJ report discovery. If that time does NOT work for you please let me know, and propose some alternate times and dates that work for you.

As we prepare for the conference, we ask that you please consider alternatives to identifying your affirmative defenses in a pleading responsive to the complaint. For example, the parties might agree to have each of the defendants respond to a Rule 33 interrogatory from Plaintiff asking them to identify their affirmative defenses and the facts supporting them. However we do it, our point is to get the defendants' affirmative defenses identified in some form so that evidence about them can be gathered now, rather putting than requiring another delay in this case.

Best regards,

Steve



**Stephen H. Weil**

Senior Attorney

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**From:** Florence Johnson <[fjohnson@johnsonandjohnsonattys.com](mailto:fjohnson@johnsonandjohnsonattys.com)>

**Sent:** Thursday, January 16, 2025 12:35 PM

**To:** Alexis Johnson <[AJohnson@rblaw.net](mailto:AJohnson@rblaw.net)>; Silk, Jennie <[jsilk@bakerdonelson.com](mailto:jsilk@bakerdonelson.com)>; McKinney, Kelsey <[kmckinney@bakerdonelson.com](mailto:kmckinney@bakerdonelson.com)>; Betsy McKinney <[BMcKinney@gmlblaw.com](mailto:BMcKinney@gmlblaw.com)>; Brooke Cluse <[Brooke@bencrump.com](mailto:Brooke@bencrump.com)>; cgrice <[cgrice@eflawgroup.com](mailto:cgrice@eflawgroup.com)>; Clyde W. Keenan <[keenandl@aol.com](mailto:keenandl@aol.com)>; Darrell J. O'Neal <[domemphislaw@darrelloneal.com](mailto:domemphislaw@darrelloneal.com)>; David Louis Mendelson I <[dm@mendelsonfirm.com](mailto:dm@mendelsonfirm.com)>; Deborah Godwin <[DGodwin@gmlblaw.com](mailto:DGodwin@gmlblaw.com)>; [ge@perrygriffin.com](mailto:ge@perrygriffin.com); Jarrett Michael Dean Spence <[jspence@spencepartnerslaw.com](mailto:jspence@spencepartnerslaw.com)>; John Keith Perry Jr. <[jkp@perrygriffin.com](mailto:jkp@perrygriffin.com)>; Laura Elizabeth Smittick <[support@smitticklaw.com](mailto:support@smitticklaw.com)>; [lgross@perrygriffin.com](mailto:lgross@perrygriffin.com); Martin Zummach <[martin@sparkman-zummach.com](mailto:martin@sparkman-zummach.com)>; Mary Collins <[MCollins@gmlblaw.com](mailto:MCollins@gmlblaw.com)>; [mistie@sparkman-zummach.com](mailto:mistie@sparkman-zummach.com); Robert Spence <[rspence@spencepartnerslaw.com](mailto:rspence@spencepartnerslaw.com)>; Terri Norman <[TNorman@gmlblaw.com](mailto:TNorman@gmlblaw.com)>; McMullen, Bruce <[bmcmullen@bakerdonelson.com](mailto:bmcmullen@bakerdonelson.com)>; Reagan, Ian <[ireagan@bakerdonelson.com](mailto:ireagan@bakerdonelson.com)>; Morris, Angela <[amorris@bakerdonelson.com](mailto:amorris@bakerdonelson.com)>; Thompson, Theresa <[tthompson@bakerdonelson.com](mailto:tthompson@bakerdonelson.com)>

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**Subject:** Re: Wells v. City of Memphis et. al. - Ltr to Counsel re Schedule for Pleadings & Discovery of Affirm. Defenses

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Please note that Defendant Emmitt Martin objects to the proposal contained the letter of January 13, 2025.

Thank you.

Florence M. Johnson



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---

**From:** Alexis Johnson <[AJohnson@rblaw.net](mailto:AJohnson@rblaw.net)>

**Sent:** Monday, January 13, 2025 5:06 PM

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**Subject:** Wells v. City of Memphis et. al. - Ltr to Counsel re Schedule for Pleadings & Discovery of Affirm. Defenses

Dear Counsel,

Please see the attached letter regarding the schedule for pleadings and discovery of affirmative defenses.

Thank you!

**Alexis Johnson**  
Paralegal



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